

BACKUS | BURDEN
 3050 SOUTH DURANGO
 LAS VEGAS, NEVADA 89117
 TELE: (702) 872-5555 FAX: (702) 872-5545

Jack P. Burden, Esq.
 Nevada State Bar No. 6918
 Lisa Szyk, Esq.
 Nevada State Bar No. 11726
BACKUS | BURDEN
 3050 South Durango Drive
 Las Vegas, NV 89117
 T: (702) 872-5555
 F: (702) 872-5545
jburden@backuslaw.com
lisaszyc@backuslaw.com
 Attorneys for Defendants
 Best Buy Co., Inc., and Best Buy Stores LP

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

LORREN STEARMAN, individually,)
)
 Plaintiff,)
 vs.)
)
 BEST BUY CO., INC.; BEST BUY)
 STORES, L.P.; DOE INDIVIDUALS)
 I- X, inclusive; and ROE)
 CORPORATIONS I-X, inclusive,)
)
 Defendants.)

NOTICE OF REMOVAL

Defendants BEST BUY CO., INC. and BEST BUY STORES L.P., by and through their counsel of record, Jack P. Burden, Esq. and Lisa M. Szyk, Esq. of the law firm BACKUS | BURDEN, hereby file this instant notice of removal of this action to the United States District Court for the District of Nevada, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and in support thereof, state as follows:

I. FACTUAL AND PROCEDURAL HISTORY

1. Plaintiff Lorren Stearman is and was a resident of the State of Nevada at all relevant times pertaining to this action and is therefore a citizen of Nevada for purposes of diversity. *See* Complaint, at ¶ 1, filed in the Eighth Judicial District Court for the District of Nevada,

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1 attached hereto as Exhibit A.

- 2 2. Defendant Best Buy is a company organized, existing, and doing business under and by
- 3 virtue of the laws of the State of Delaware, with its headquarters and principal place of
- 4 business in the State of Minnesota.
- 5 3. Defendant Best Buy Stores, LP is a company organized, existing and doing business under
- 6 and by virtue of the laws of the State of Minnesota.
- 7
- 8 4. Plaintiff's Complaint was filed in the Eighth Judicial District Court for the District of
- 9 Nevada on April 27, 2023. *See* Exhibit A.
- 10 5. The Summons and Complaint were served on Defendant Best Buy Co., Inc. on May 4,
- 11 2023. *See* Affidavit for Best Buy Co., Inc., attached hereto as Exhibit B; *see also* Affidavit
- 12 of Service for Best Buy LP, attached as Exhibit C.
- 13 6. Plaintiff's Complaint alleges causes of action for (1) Negligence. *See* generally, Exhibit A.
- 14 7. Plaintiff alleges that she tripped over a ladder or other hazard in the aisleway. *See* Exhibit
- 15 A, at ¶¶ 8, 16.
- 16 8. Plaintiff seeks damages in excess of \$75,000. *See* Plaintiff's Request for Exemption from
- 17 Arbitration, attached hereto as Exhibit D, at pg. 2 lines 26-27.
- 18

19 **II. DIVERSITY JURISDICTION**

- 20 9. Pursuant to 28 U.S.C. § 1332(a), a federal district court "shall have original jurisdiction of
- 21 all civil actions where the matter in controversy exceeds the sum of value of \$75,000" and
- 22 the controversy is between "citizens of different states." *See* 28 U.S.C. § 1332(a).
- 23
- 24 10. Pursuant to 28 U.S.C. § 1332(a)(1), this case may be removed to United States District
- 25 Court for the District of Nevada because there is complete diversity of citizenship between
- 26 Plaintiff and Defendant, and the amount in controversy exceeds \$75,000.
- 27 11. There is complete diversity in this matter as Plaintiff is a citizen of Nevada and Defendants
- 28 are citizens of Minnesota.

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12. Further, the requisite amount in controversy under 28 U.S.C. § 1332(a) is also met, as Plaintiff states in her Request for Exemption from Arbitration. *See* Exhibit D, at pg. 2 lines 26-27.

13. Plaintiff states in her Request for Exemption that the total medical damages are \$95,545.67 standing alone *See* Exhibit D, at pg. 2 lines 26-27.

14. Accordingly, this Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a).

15. Defendant respectfully requests this matter be removed to the United States District Court for the District of Nevada.

III. THE PROCEDURAL REQUIREMENTS FOR REMOVAL HAVE BEEN SATISFIED

16. 28 U.S.C. § 1446(b)(1) states: “The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.”

17. 28 U.S.C. § 1446(b)(3) states: Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order, or other paper from which it may first be ascertained that the case is one which is or has become removable.

18. This instant Notice of Removal is timely in that it is filed within 30 days of service of Plaintiff’s Request for Exemption of Arbitration. Plaintiff’s Request for Exemption from Arbitration was filed on June 6, 2023. *See* Exhibit D.

19. This Court has original jurisdiction over the subject matter of this action, pursuant to 28

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1 U.S.C. § 1332(a), as there is complete diversity between the parties, and there is more than
2 \$75,000 in controversy, exclusive of interest and costs.

3 20. Pursuant to 28 U.S.C. § 1441, this action is one which may be removed to this Court.

4 21. Pursuant to 28 U.S.C. § 1446(c)(1), the date for removal is not more than one year after the
5 October 6, 2022 commencement of the state court action.

6 22. Pursuant to 28 U.S.C. § 1446(b)(2)(A), all Defendants properly joined have consented to
7 the removal of this action.

8 23. A true and correct copy of this Notice of Removal will be filed with the clerk for the
9 Eighth Judicial District Court, Clark County, Nevada.

10 24. Pursuant to 28 U.S.C. § 1446, a true and correct copy of all process, pleadings, and orders
11 served upon Defendant in the state court are attached hereto. *See* Complaint, attached as
12 Exhibit A; Affidavit of Service for Best Buy Co., Inc., attached as Exhibit B; Affidavit of
13 Service for Best Buy LP, attached as Exhibit C; Plaintiff's Request for Exemption from
14 Arbitration, attached as Exhibit D; Defendant's Answer to Plaintiff's Complaint, attached
15 as Exhibit E; Defendant's Demand for Jury Trial, attached as Exhibit F; Defendant's Initial
16 Appearance Fee Disclosure, attached as Exhibit G; Plaintiff's Initial Appearance Fee
17 Disclosure, attached as Exhibit H; Plaintiffs Demand for Jury Trial, attached as Exhibit I.
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19 25. Therefore, pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant is entitled to remove
20 this action to this court.
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PRAYER

26. WHEREFORE, Defendant's pray that the above-entitled action be removed from the Eighth Judicial District Court in and for Clark County, Nevada.

DATED this 7th day of June, 2023

Respectfully Submitted,

BACKUS | BURDEN

By: /s/ Jack P. Burden

Jack P. Burden, Esq.

Lisa Szyc, Esq.

3050 South Durango Drive

Las Vegas, NV 89117

Attorneys for Defendants

Best Buy, Co., Inc. and Best Buy Stores, LP

CERTIFICATE OF SERVICE

I am a resident of and employed in Clark County, Nevada. I am over the age of 18 years and not a party to the within action. My business address is: 3050 South Durango Drive, Las Vegas, Nevada, 89117.

On June 7, 2023 I served this document on the parties listed on the attached service list via one or more of the methods of service described below as indicated next to the name of the served individual or entity by a checked box:

VIA U.S. MAIL: by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada. I am "readily familiar" with the firm's practice of collection and processing correspondence by mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage fully prepaid at Las Vegas, Nevada in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing an affidavit.

VIA FACSIMILE: by transmitting to a facsimile machine maintained by the attorney or the party who has filed a written consent for such manner of service.

BY PERSONAL SERVICE: by personally hand-delivering or causing to be hand delivered by such designated individual whose particular duties include delivery of such on behalf of the firm, addressed to the individual(s) listed, signed by such individual or his/her representative accepting on his/her behalf. A receipt of copy signed and dated by such an individual confirming delivery of the document will be maintained with the document and is attached.

BY E-MAIL: by transmitting a copy of the document in the format to be used for attachments to the electronic-mail address designated by the attorney or the party who has filed a written consent for such manner of service.

BY CM/ECF SYSTEM: by transmitting via the United States District Court's CM/ECF System to the following individuals for which such service is designated on the Service List

ATTORNEYS OF RECORD	PARTIES REPRESENTED	METHOD OF SERVICE
CHARLES S. JACKSON, ESQ. Nevada Bar No.: 13158 RICHARD HARRIS LAW FIRM 801 South Fourth Street Las Vegas, Nevada 89101 Phone: (702) 444-4444 Fax: (702) 444-4455 Charlie@RichardHarrisLaw.com	Plaintiff	<input type="checkbox"/> Personal service <input type="checkbox"/> Email service <input type="checkbox"/> Fax service <input type="checkbox"/> Mail service <input checked="" type="checkbox"/> CM/ECF SYSTEM

I declare that under penalty of perjury under the laws of the State of Nevada that the above is true and correct. I further declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

/s/ Anne Raymundo
An employee of **BACKUS | BURDEN**

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